

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2007 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of final rulemaking action to adopt the following amendments to Title 17 (Business, Occupations, and Professions) of the District of Columbia Municipal Regulations.

This rulemaking creates a new chapter 93, "Home Health Aides." These regulations are required pursuant to the Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; 56 DCR 3624).

These rules were previously published as Proposed Rulemaking in the *D.C. Register* on May 18, 2012, at 58 DCR 5194. Several comments were received and are enumerated as follows:

University Legal Services suggested that § 9315.1(s) be amended to allow home health aides to administer medications, which include but are not limited to: (1) PRN medications; (2) physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medication and medications by gastric ("G" or "J") tube; (3) insulin via syringe, insulin pen, or insulin pump; (4) emergency medications, including emergency injections of epinephrine and glucagon; (5) medication via metered dose inhaler or nebulizer; and (6) medication via tubes.

In addition, University Legal Services recommended that home health aides be allowed to: (1) conduct finger-stick blood glucose testing and record the results; (2) administer treatment for skin conditions, including decubitus ulcers; (3) administer bowel and bladder care; (4) provide feedings by gastric ("G" or "J") tube; and (5) provide respiratory care, including nebulizer treatment and ventilator care.

In response to University Legal Services' suggested changes, the Board of Nursing states that the Health Occupations Revision General Amendment Act of 2009 (D.C. Law 18-26) sets forth the following "nursing assistive personnel" who are to be regulated by the Board of Nursing: (a) nursing assistants; (b) health aides; (c) home health aides; (d) nurse aides; (e) trained medication employees; (f) dialysis technicians; and (g) any other profession as determined by the Mayor through rulemaking. The duties and tasks of nursing assistive personnel are divided based on their title and national practices. Nursing assistive personnel work under the supervision of nurses. Training for all nursing assistive personnel will take place in approved training programs using curriculums outlined by the Board of Nursing.

The following skills from the list recommended by University Legal Services are included in the training outlined by the Board of Nursing for home health aides: (1) bowel and bladder care, including indwelling catheter care; (2) enemas; (3) ostomy care; and (4) dry dressings.

Some of the recommendations that University Legal Services suggest home health aides be allowed to perform require extensive assessments be made and are not within the scope of practice permitted for nursing assistive personnel. They are: (1) administration of medications and feedings via G-tube; (2) nebulizer treatments; and (3) respiratory and ventilator care.

“Medication aides” will be tasked with the responsibility of medication administration. Many of the skills that University Legal Services recommends will be performed by medication aides. These responsibilities include: (1) medication administration via oral, eyes, ears, nose, rectal-anal, topical and pre-prepared insulin; (2) PRN medication (after consultation with the delegating nurse); (3) finger stick blood glucose testing (proposed task); and (4) administration of epinephrine by EpiPen®.

For the reasons outlined above, the changes to section 9315 recommended by University Legal Services are not being incorporated into the regulations.

University Legal Services also opined that section 9327.1(g) be amended to ensure that home health aide training include components that will apprise the aides of their responsibility to communicate with the family at the client’s request and with significant others.

The Board of Nursing chose not to amend this section noting that the training curriculum for home health aides includes HIPAA information and guidelines addressing the client’s right to privacy and confidentiality.

Home Care Partners recommended that the forty (40) hours of clinical site training specified in § 9327.3(a) be reduced to sixteen (16) hours. Home Care Partners believes that the forty (40) hours requirement is unrealistic and burdensome for clients in the home.

The Board of Nursing responded to Home Care Partners’ recommendation by stating that the home health aide curriculum is developed based on the knowledge and skills that are needed for the home health aide to perform the permitted tasks. The clinical time indicated, forty (40) hours, provides sufficient time for the home health aide to perform skills learned in the school’s laboratory and to develop communication and other skills needed to work with clients autonomously in their homes. Home health aides do not work under direct supervision as nursing assistants, who also are required to have a minimum of forty (40) hours of clinical training. Home health aide students with other nursing assistive certifications do not complete forty (40) hours, but sixteen (16) hours in home settings.

For the aforementioned reasons, the Board of Nursing voted not to reduce the forty (40) hours requirement to sixteen (16) hours.

Home Care Partners also recommended that fourteen (14) hours be added to clinical laboratory training and ten (10) hours to classroom instruction resulting in seventy-five (75) hours of classroom study.

The Board responds to this recommendation by stating that the laboratory hours included in the curriculum, twenty (20) hours, provides for demonstration, minimum practice, and return

demonstration of skills. Extended student practice hours are above and beyond the hours listed in the curriculum.

For the above-stated reasons, the Board of Nursing voted that the number of clinical laboratory hours and classroom instruction hours not be increased.

Home Care Partners also recommended that § 9327.2(f)(5) be amended so that home health aides not be allowed to administer oxygen therapy unless the home health aide is also a trained medication aide. Oxygen is considered a medication under Medicare regulations and requires an advanced level of skill and training.

The Board responds to this recommendation by stating that training for oxygen administration is included in home health aide training.

For the above-stated reason, the Board did not incorporate this change into the regulations.

The D.C. Coalition on Long Term Care recommended that the forty (40) hours of clinical training as specified in § 9327.3(a) be delineated as sixteen (16) hours in the home setting and twenty-four (24) hours in other settings.

The Board's response to this recommendation is that the training programs will be required to use a Board-approved curriculum under § 9327.3 and that the Board will, in that curriculum, delineate how the forty (40) hours will be apportioned between home settings and other settings.

For the aforementioned reason, no changes will be made to § 9327.3(a).

The D.C. Coalition also questioned the rationale for decreasing the number of continuing education requirements to twelve (12) for reinstatement (§ 9309.1(b)) of an expired registration from the twenty-four (24) as required by similar professions.

The Board's response to this question (recommendation) is that home health aides will not be required to provide proof of continuing education requirements until at least 2016 at the earliest. There is sufficient time for the Board to revisit this issue.

For the aforementioned reason, § 9309.1(b) is not being amended at this time.

The D.C. Coalition also recommended that schools be given sufficient time to develop their training programs. The Coalition also urged the Board to monitor the completion rate of the home health aide program versus the test-passing rate.

The Board's response is that the school will be using the Board's curriculum, including skills checklist and clinical evaluation. Programs will have ninety (90) days from the final publication of the regulations to conform to the Board's curriculum.

No substantive changes have been made to this rulemaking, and it will become effective upon publication of this notice in the *D.C. Register*.

Title 17, Business, Occupations, and Professions, of the District of Columbia Municipal Regulations is amended by adding a new Chapter 93 to read as follows:

CHAPTER 93 HOME HEALTH AIDES

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9300 GENERAL PROVISIONS

- 9300.1 This chapter applies to applicants for, and holders of, a certification to practice as a home health aide (HHA).
- 9300.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title shall supplement this chapter.

9301 CERTIFICATION

- 9301.1 No person shall practice as a home health aide in the District of Columbia without first being certified by the Board of Nursing (Board).

9302 TERM OF CERTIFICATION

- 9302.1 Subject to § 9301.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. of October 30 of each odd-numbered year.
- 9302.2 The Director may modify the renewal system pursuant to § 4006.3 of chapter 40 of this title and may modify the date on which a certification expires.

9303 CRIMINAL BACKGROUND CHECK

- 9303.1 A person applying for certification as an HHA shall undergo a criminal background check (CBC) prior to issuance of the certification.
- 9303.2 After issuance of an initial certification, the applicant shall undergo an additional background check every four (4) years or as determined by the Department of Health.
- 9303.3 The applicant shall pay a fee for the CBC as established by the Department of Health.
- 9303.4 The Board shall review the results of a CBC of a person if, within the seven (7) years preceding the CBC, the person has been convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, of any of the following offenses or their equivalent:
 - (a) Murder, attempted murder, or manslaughter;
 - (b) Arson;
 - (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem, or threats to do bodily harm;
 - (d) Burglary;

- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion, or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect, or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute, of a controlled substance.

9304 APPLICATION FOR CERTIFICATION

9304.1 Except as otherwise provided in this chapter, a person applying for certification as a home health aide shall:

- (a) Be at least eighteen (18) years of age;
- (b) Submit evidence of having successfully completed an approved home health aide program;
- (c) Pass a Board approved certification examination;
- (d) Complete a CBC; and
- (e) Submit an application and application fee.

9304.2 A certified nursing assistant (CNA) applying for certification as an HHA shall:

- (a) Provide evidence of having successfully completed the training requirements specific to the role of an HHA as specified in § 9327.
- (b) Complete a CBC; and
- (c) Submit an application and application fee.

9305**CERTIFICATION BY EXAMINATION**

9305.1 To qualify for certification by examination, an applicant shall provide proof of one (1) of the following:

- (a) Successful completion of a home health aide program, within the past twenty-four (24) months, approved by the Board or by a nursing board in the United States with standards determined by the Board to be substantially equivalent to the standards in the District;
- (b) Completion of a practical nursing or registered nursing “Fundamentals of Nursing” course with a clinical component in the United States within the last thirty-six (36) months from the date of an application for certification; or
- (c) A Commission on Graduates of Foreign Nursing Schools certificate, received within the last thirty-six (36) months from the date of an application for certification, indicating education as a registered nurse (RN) or licensed practical nurse (LPN) outside the United States.

9305.2 The Board shall waive the training and examination requirements for any person currently practicing as an HHA provided that the applicant demonstrates, to the satisfaction of the Board, that he or she has been performing the functions of an HHA on a full-time or substantially full-time (a minimum of one thousand (1000) hours per year) basis provided that the HHA complies with the following:

- (a) Has completed a Board-approved HHA training program;
- (b) Provides a statement from a supervising nurse or health care professional indicating the applicant’s continued competence to provide care;
- (c) Has worked as an HHA for a period of at least ninety (90) days immediately preceding the date these regulations are published as final;
- (d) Submits an application no later than one hundred eighty days (180) after these regulations are published as final rulemaking; and
- (e) Submits a letter from an employer certifying the applicant’s ability to perform skills as listed in § 9327.2.

9305.3 An applicant for re-examination shall retake the HHA training if:

- (a) The applicant failed the certification examination three (3) times; or
- (b) The applicant cannot provide evidence that he or she has worked as an

HHA for one hundred (100) hours within the last twenty-four (24) months under the supervision of a licensed nurse or other health professional licensed in the District of Columbia.

9306 CERTIFICATION BY ENDORSEMENT

9306.1 An applicant for endorsement as an HHA shall provide proof of the following:

- (a) Current certification as an HHA or similar title and duties; or
- (b) The applicant's ability to perform skills listed in § 9327.2 (letter from employer certifying ability).

9307 RENEWAL OF CERTIFICATION

9307.1 An applicant for renewal shall have:

- (a) Completed at least twenty-four (24) hours of continuing education or in-service training in the area of health or nursing needs of an assigned client population during the certification period;
- (b) Practiced a minimum of one hundred (100) hours during the prior twenty-four (24) months as an HHA under the supervision of a licensed nurse or other licensed health professional; and
- (c) Completed a CBC as required.

9308 INACTIVE STATUS; REACTIVATION OF CERTIFICATION

9308.1 An HHA with an active certification may request to be placed on inactive status.

9308.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice as an HHA in the District of Columbia.

9308.3 To reactivate within five (5) years of an inactive status the individual shall submit evidence of having completed twenty-four (24) hours of continuing education or in-service training within the last twenty-four (24) months.

9309 REINSTATEMENT OF EXPIRED CERTIFICATION

9309.1 If a home health aide fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;

- (b) Provides evidence of having completed twelve (12) continuing education hours within the year prior to submission of an application; and
- (c) Provides evidence of having worked for a minimum of one hundred (100) hours within the last twenty four (24) months as an HHA under the supervision of a licensed nurse or other licensed health professional.

9309.2 If an HHA fails to apply for reinstatement within five (5) years after the certification expires, the Board may reinstate the certification if the applicant provides proof of the following:

- (a) Current certification in another jurisdiction approved by the Board; or
- (b) Having practiced for a minimum of one hundred (100) hours within the last twenty-four (24) months under the supervision of a licensed nurse or other licensed health professional deemed appropriate by the Board.

9309.3 If an HHA does not hold a certification in another jurisdiction and fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9304.

9310 TEMPORARY CERTIFICATION FOR PURPOSES OF REINSTATEMENT

9310.1 An applicant for certification as an HHA by reinstatement may be issued a temporary certification if the applicant has an application pending for reinstatement of certification in the District of Columbia.

9310.2 An applicant who has been denied a certification, has been disciplined, or has a criminal matter pending in the District of Columbia or another jurisdiction shall not practice pursuant to this section unless first authorized by the Board.

9310.3 The Board may approve a temporary certification documenting that the applicant's application is pending and that he or she is eligible to practice temporarily under the Act and this chapter. Temporary certification shall not be renewed and shall expire on the earlier of:

- (a) Ninety (90) days after the date of issuance; or
- (b) Receipt of written notice from the Board that the application for certification has been denied.

9310.4 Upon approval of the temporary certification, the applicant shall inform his or her employer of the date of expiration and shall immediately cease working as an HHA in the District on that date or upon receipt of written notice from the Board that the application for certification has been denied.

9311 PERFORMANCE REVIEWS; CONTINUING EDUCATION OR IN-SERVICE

9311.1 The employer for which an HHA works shall complete a performance review of every HHA at least once every twelve (12) months.

9311.2 The employer for which an HHA works shall provide regular in-service education or continuing education based on the outcome of the performance reviews. The training shall:

- (a) Be sufficient to ensure the continuing competence of the HHA, but not less than twelve (12) hours per year; and
- (b) Address areas of weakness as determined in the HHA's performance review and may address the special needs of clients as determined by the employer's staff.

9311.3 Continuing education or in-service programs provided for the HHA shall be:

- (a) Current in subject matter;
- (b) Developed and taught by qualified individuals; and
- (c) Relevant to the role of the HHA.

9311.4 A minimum of two (2) hours of HIV/AIDS in-service or continuing education shall be required for renewal of certification.

9312 [RESERVED]

9313 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO HOME HEALTH AIDES

9313.1 A licensed nurse or health care professional may assign tasks to HHAs that are among the authorized tasks of the HHA listed in § 9315.1.

9313.2 HHAs shall not practice independently but shall work under the immediate supervision of a licensed nurse or other licensed health care professional if the supervisor determines that immediate supervision is necessary or work under general supervision.

9313.3 A registered nurse may delegate tasks to HHAs. The delegating registered nurse shall comply with the standards for delegation listed in 17 DCMR § 5415. Nursing care tasks that may be delegated shall be determined by:

- (a) The knowledge and skills of the HHA;
- (b) Verification of the clinical competence of the HHA by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated to the home health aide;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of a licensed nurse or other licensed health professionals.

9313.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one or more procedures shall not be delegated to the HHA.

9314 [RESERVED]

9315 HOME HEALTH AIDE TASKS

9315.1 Under the supervision of a licensed nurse or health professional the HHA may perform the following tasks:

- (a) Perform personal care including assistance with activities of daily living such as bathing, personal hygiene, toileting, transferring from the wheelchair, and instrumental activities such as meal preparation, laundry, grocery shopping, telephone use, and money management;
- (b) Change urinary drainage bags;
- (c) Assist the client with transfer, ambulation, and exercise as prescribed;
- (d) Assist the client with self-administration of medication;
- (e) Measure and record temperature, pulse, respiration, and blood pressure;
- (f) Measure and record height and weight;

- (g) Observe, record, and report the client's physical condition, behavior, or appearance;
- (h) Prepare meals in accordance with dietary guidelines;
- (i) Assist with eating;
- (j) Implement universal precautions to ensure infection control;
- (k) Perform tasks related to keeping the client's living area in a condition that promotes the client's health and comfort;
- (l) Change simple dressings that do not require the skills of a licensed nurse;
- (m) Assist the client with activities that are directly supportive of skilled therapy services;
- (n) Assist with routine care of prosthetic and orthotic devices;
- (o) Empty and change colostomy bags and perform care of the stoma;
- (p) Clean around a g-tube site;
- (q) Administer an enema;
- (r) Administer oxygen therapy; and
- (s) Administer medications, provided that the HHA has received the medication administration training and obtained certification as a medication aide.

9316 [RESERVED]

9317 DISCIPLINE

9317.1 The Board of Nursing may revoke, suspend, or deny recertification of any HHA who is convicted, during a period of certification, of any of the crimes as listed in § 9303.4 or any act specified in D.C. Official Code § 3-1205.14 (2012 Supp.).

9317.2 In addition to any other disciplinary action it may take, impose a civil penalty of not more than five thousand dollars (\$5,000) per violation or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the HHA.

9317.3 The Board shall maintain records of disciplinary actions and make available all public findings of abuse, neglect, or misappropriation of client property or other disciplinary findings and any statement disputing the findings by the HHA on the registry.

9317.4 An HHA who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may use the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2007 Repl.).

9317.5 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, D.C. Official Code § 3-1201.01, *et seq.* (2007 Repl. & 2012 Supp.) (Act), that it deems appropriate.

9318 [RESERVED]

9319 [RESERVED]

9320 STANDARDS FOR HOME HEALTH AIDE TRAINING PROGRAMS

9320.1 No institution shall provide HHA training in the District of Columbia unless its training program has been approved by the Board.

9320.2 The following types of institutions may apply for approval to provide HHA training:

- (a) Private degree-granting educational institutions operating or incorporated in the District of Columbia that are licensed by the Education Licensure Commission pursuant to the Educational Institution Licensure Act of 1976; (D.C. Law 1-104; D.C. Official Code §§ 31-1301, *et seq.* (2001 Ed. and 2012 Supp.));
- (b) Private non-degree-granting post secondary schools operating in the District of Columbia which are licensed by the Education Licensure Commission;
- (c) District public vocational or trade schools;
- (d) District public universities or colleges; and
- (e) Health care facilities licensed as training facilities by the Education Licensure Commission and operating in the District of Columbia that have received no adverse actions during the preceding two (2) years.

- 9320.3 The Board shall consider any one (1) of the following as an adverse action which would preclude a health care facility from providing HHA training:
- (a) The termination, restriction, or revocation of a facility's participation in the Medicaid or Medicare program;
 - (b) The fact that there is a restricted or provisional license for a facility, other than a new facility; or
 - (c) If a facility has a provider agreement of less than one (1) year.
- 9320.4 All HHA training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.
- 9321 SUPERVISED PRACTICE OF HOME HEALTH AIDE TRAINEES**
- 9321.1 An HHA trainee may practice only in accordance with the Act and this chapter.
- 9321.2 A trainee who is fulfilling educational requirements under §§ 9312.1 and 9315.1 may engage in supervised practice without a District of Columbia certification.
- 9321.3 All supervised practice of a trainee shall take place under the general or immediate supervision of a licensed nurse or other appropriate health professional.
- 9321.4 A trainee shall identify himself or herself as a trainee before practicing.
- 9321.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.
- 9321.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for violations of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (Act) (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01, *et seq.* (2007 Repl. & 2012 Supp.)) or this chapter by the trainee.
- 9321.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.
- 9322 [RESERVED]**
- 9323 [RESERVED]**

9324

HOME HEALTH AIDE PROGRAM APPROVAL PROCEDURES

9324.1

Each institution applying for approval to provide HHA training shall do the following:

- (a) Submit to the Board a statement of intent to establish an HHA training program;
- (b) Submit to the Board a proposal to establish an HHA training program which shall contain the following information:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;
 - (3) A description of the proposed program's potential effect on existing home health aide training programs in the area;
 - (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of adequate financial resources for planning, implementation, and continuation of the program;
 - (6) Evidence of current licensure by the Education Licensure Commission or other Board-approved credentialing or accreditation organization;
 - (7) The background and qualifications of the proposed instructors;
 - (8) The number of full time equivalent (FTE) budgeted instructor positions;
 - (9) Evidence of the availability of adequate clinical facilities;
 - (10) A description of the anticipated trainee population, including admission criteria and along with a copy of the admissions exam;
 - (11) A tentative time schedule for planning and initiating the program; and
 - (12) Fee schedules; and
- (c) Submit the application fee.

9324.2 After reviewing the application, based on the applicant's compliance with §§ 9327 and 9332, a decision shall be made to:

- (a) Approve the program;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the program.

9324.3 If an application approval has been granted, a site visit shall be conducted by the Board in conjunction with the Education Licensure Commission staff to determine the program's compliance with § 9327 and the program's ability to meet criteria set forth in §§ 9331 and 9332.

9324.4 After reviewing the site visit report, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.

9324.5 A training program shall not admit trainees to the program before the program has been approved by the Board.

9325 PERIODIC REVIEWS OF APPROVED PROGRAMS

9325.1 Programs approved by the Board to train HHAs shall submit to the Board an annual report in accordance with procedures set out by the Board.

9325.2 The Board shall re-evaluate HHA training programs at least once a year.

9325.3 The Board may make unannounced visits to review and assess each HHA training program to ensure that the program is in compliance with §§ 9327, 9331, and 9332.

9325.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, annual reporting, and any other information deemed appropriate by the Board.

9325.5 The Board shall withdraw approval of a training program if:

- (a) It determines that the program is not in compliance with standards set forth in §§ 9327, 9331, and 9332;
- (b) The program does not permit an unannounced site visit;
- (c) The institution loses its license from the Education Licensure Commission; or

- (d) The training program has not graduated an HHA class in at least twelve (12) months or more.

9325.6 If the training program does not meet the requirements for continued approval, the Board may grant conditional approval pending correction of the deficiencies for the following reasons:

- (a) The program has not met or maintained the Board's regulatory requirements;
- (b) The program fails to correct the deficiencies identified by the Board within the allotted time period;
- (c) The program fails to hire a nurse administrator for a minimum of one-half (0.5) FTE who meets the Board's qualifications;
- (d) The program fails to hire faculty who meet the Board's qualifications;
- (e) The program is noncompliant with the program's stated philosophy, program design, objectives or outcomes, or policies;
- (f) The program fails to implement the District-approved curriculum;
- (g) The program fails to meet the seventy-five percent (75%) passing rate on the District's competency evaluation for a period of one (1) year or more;
- (h) The program fails to submit records and reports to the Board in a timely manner; or
- (i) The program is noncompliant with any of the regulations in this chapter, and other activities or situations, as determined by the Board that indicate the program is not meeting the legal requirements and standards of vocational education.

9325.7 Programs placed in conditional approval status may be required to comply with any or all of the following conditions:

- (a) Prohibit a program from admitting new students;
- (b) Require the program to limit student admissions;
- (c) Reduce the frequency of classes that are offered; or
- (d) Any other conditions deemed necessary by the Board to assure that the program meets the regulatory requirements of this chapter.

- 9325.8 Training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to:
- (a) Continued failure to fully implement the District-approved curriculum for the training program;
 - (b) Continued failure to maintain an adequate number of instructors with required qualifications;
 - (c) Continued failure to meet the seventy-five percent (75%) passing rate on the District’s competency evaluation for a period of two (2) years or more;
 - (d) Continued failure of trainees to demonstrate adequate competencies upon employment;
 - (e) Continued failure to adhere to the training program’s stated philosophy, objectives, and policies; or
 - (f) Continued failure to maintain adequate resources, facilities, and services required to meet training objectives.

9325.9 The Board may consider reinstatement or approval of a training program upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.

9325.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9325.11 Any Board action for suspension or withdrawal of a training program’s approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2012 Supp.).

9326 [RESERVED]

9327 HOME HEALTH AIDE TRAINING PROGRAM CURRICULUM

9327.1 Core training requirements include:

- (a) Cardio-pulmonary resuscitation (CPR) – basic life support (BLS) for Healthcare Providers;
- (b) First aid;
- (c) The role of nursing assistive personnel;
- (d) Client rights and privacy;

- (e) Legal and ethical duties, including recognition, prevention, and reporting of abuse or neglect;
- (f) Care sensitive to culture, religion, national origin, gender identity, and sexual orientation;
- (g) Interpersonal communication;
- (h) Receiving delegation and working as a member of the health care team;
- (i) Basic safety skills;
- (j) Infection prevention, including standard precautions;
- (k) Delegated nursing functions including:
 - (1) Taking and documenting vital signs, intake and output, and other routine observations;
 - (2) Measuring and documenting the client's height and weight; and
 - (3) Recognizing, reporting, and documenting abnormal changes in behavior or body functions;
- (l) Basic restorative skills, including safe transfer, ambulation, maintaining range of motion, and positioning;
- (m) Personal care skills, including but not limited to bathing, feeding, hydration, skin care, dressing, grooming, and toileting;
- (n) Caring for the client's environment;
- (o) Promoting the client's independence;
- (p) Measures for ensuring safety of clients at risk which include but are not limited to:
 - (1) Cognitive impairment;
 - (2) Sensory deficits or impairments;
 - (3) Communication limitations;
 - (4) Altered level of consciousness; and
 - (5) Agitation or combativeness;

- (q) Working with agitated or combative clients, including techniques useful in the prevention of abuse;
- (r) Prohibition on use of restraints;
- (s) End of life care;
- (t) Supporting individuals with cognitive, intellectual or developmental disabilities;
- (u) Supporting individuals with behavioral problems;
- (v) Basic emergency procedures;
- (w) Preventing fatigue and burn-out;
- (x) Types of abusive behavior; and
- (y) Requirements of reporting incidents.

9327.2

Training requirements specific to the role of the HHA shall include:

- (a) Tasks and responsibilities of an HHA;
- (b) Implementation of a plan of care;
- (c) Legal and ethical considerations for an HHA;
- (d) Respect for client property;
- (e) Personal and community safety for an HHA;
- (f) Delegated nursing functions:
 - (1) Basic restorative skills, including transfers, ambulation, range of motion, and positioning, that are appropriate for the home setting;
 - (2) Assisting with self-administration of medication;
 - (3) Administering an enema;
 - (4) Care of ostomy including skin and changing appliance;
 - (5) Administering oxygen therapy; and

- (6) Medication administration following medication aide certification;
- (g) The foundations for working with the home care client, the family, and significant others of the client and home care team members, including:
 - (1) Family dynamics;
 - (2) Communication with the client, the client's family, and significant others in the home setting;
 - (3) Dealing with barriers to communication in the home;
 - (4) Communication with the home care team;
 - (5) Maintaining relationships with the client, the client's family, and significant others;
 - (6) Understanding basic human needs; and
 - (7) Individual, family, and cultural differences;
- (h) Foundations for a safe client environment, including:
 - (1) General home safety;
 - (2) Infection prevention in the home;
 - (3) Fire safety in the home setting;
 - (4) Emergencies in the home setting;
 - (5) Home care considerations, including:
 - (A) Food and nutrition, meal planning, and meal preparation;
 - (B) Housekeeping, laundering, and food shopping;
 - (C) Maintenance of a clean, safe, and healthy environment; and
 - (D) Use and care of medical equipment in the home; and
 - (6) Simple procedures such as non-sterile dressings; and

- (i) Understanding and working with various client populations in home care settings including:
 - (1) Introduction to infant and child care;
 - (2) Mental and physical disabilities;
 - (3) Chronic illness and disease conditions;
 - (4) Caring for the terminal client in the home;
 - (5) The elderly client; and
 - (6) Proper use of assistive devices, such as lifts, prosthetic, and orthotic devices.

9327.3 The training program for an HHA using Board-approved model curriculum shall provide a minimum of:

- (a) One hundred twenty-five hours (125) of didactic and clinical training consisting of sixty-five (65) hours of classroom instruction, twenty (20) hours of laboratory, and forty (40) hours of clinical; or
- (b) Thirty-two hour (32) of didactic and clinical training in a certified nursing assistant (CNA) bridge course consisting of sixteen (16) hours of classroom and laboratory, and sixteen (16) hours of clinical.

9327.4 Each training program's curriculum shall prepare trainees to practice as required in § 9315 prior to any direct contact with a client.

9327.5 Each training program shall report to the Board for approval of any proposed change in its curriculum prior to the implementation of the change.

9327.6 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9327.7 The training program shall be coordinated by a registered nurse with:

- (a) A current, unencumbered license issued by the District of Columbia;
- (b) At least two (2) years of experience as a registered nurse; and
- (c) Clinical experience in the practice setting that he or she is coordinating.

9327.8 The program coordinator's responsibilities shall include, but not be limited to:

- (a) Ensuring that the curriculum is coordinated and implemented in accordance with this chapter;
- (b) Establishing job descriptions stating the responsibilities of the instructors;
- (c) Ensuring that each instructor meets the qualifications specified in this chapter;
- (d) Ensuring that each student is properly supervised during the student's clinical experience; and
- (e) Ensuring that each clinical preceptor evaluates the student's performance and provides the evaluation results to the clinical instructor.

9327.9 The training programs for HHAs shall be performed by a licensed nurse who is:

- (a) Licensed as a registered nurse in the District of Columbia and has a minimum of two (2) years of current clinical experience in the clinical practice setting in which he or she teaches; or
- (b) Licensed as a practical nurse in the District of Columbia and has a minimum of three (3) years of current clinical experience in the home or residential settings.

9327.10 A licensed, qualified health professional as listed in D.C. Official Code § 3-1201.02 (2012 Supp.) who has a minimum of two (2) years of experience may offer training to HHAs in non-nurse related content.

9327.11 The following conditions shall be met when clinical preceptors are used:

- (a) The criteria for selecting a clinical preceptor shall be in writing and shall include the following:
 - (1) The method of selecting clinical preceptors;
 - (2) The plans for orientation of clinical preceptors;
 - (3) The clinical objectives or outcomes of the preceptorship; and
 - (4) A system for monitoring and evaluating the preceptor's learning experiences.

9327.12 There shall be a written agreement between the preceptor and the training program specifying the following:

- (a) The clinical objectives or outcomes; and

- (b) The system used for monitoring and evaluating the trainee's learning experiences.

9327.13 The clinical instructor shall:

- (a) Retain responsibility for the trainee's learning experiences and meet periodically with the clinical preceptor and the trainee to monitor and evaluate the trainee's learning experiences; and
- (b) Be readily available, either directly or by a communication device, when preceptors are in the clinical area.

9327.14 The clinical preceptor shall have:

- (a) A minimum of two (2) years of experience as a licensed nurse or HHA;
- (b) Experience providing direct client care during the five (5) years immediately preceding the date of the written agreement between the preceptor and the training program;
- (c) A philosophy of health care congruent with that of the HHA program; and
- (d) Current knowledge of practice at the HHA level.

9327.15 Each clinical instructor and preceptor shall be licensed or certified in the District of Columbia.

9327.16 Clinical instruction shall be offered in the setting in which the HHA shall work.

9327.17 The ratio of clinical instructors to trainees in clinical areas involving direct care of clients shall:

- (a) Be based upon the client acuity level, skill level of the trainee, and the clinical setting; and
- (b) Not exceed one (1) instructor or preceptor to two (2) HHAs.

9327.18 Each clinical instructor and preceptor's qualifications shall be documented in the official records of the program and shall be available for review by the Board.

9327.19 Each clinical instructor shall be responsible for:

- (a) Assisting in the development, implementation, and evaluation of the purpose, philosophy, and objective of the training program;

- (b) Helping to implement and evaluate the curriculum;
- (c) Facilitating preceptor participation in the program and evaluating the progress and retention of preceptors in the program;
- (d) Giving guidance to preceptors;
- (e) Evaluating preceptor achievement in the program;
- (f) Providing for preceptor and peer evaluation of his or her teaching effectiveness; and
- (g) Participating in continuing nursing education programs to improve his or her competence in areas of responsibilities.

9328 MINIMUM QUALIFICATIONS FOR HOME HEALTH AIDE TRAINEES

- 9328.1 Each trainee shall be required to take a Board-approved pre-admission examination to assess reading, writing, and math skills prior to enrollment in a training program to ensure that the trainee is able to understand, speak, read, and write the English language at a minimum of the fifth (5th) grade level.
- 9328.2 Each trainee shall be provided information in writing on the policies governing admission, retention, dismissal, and the course requirements of the training program.
- 9328.3 Each trainee shall be free of communicable disease as verified in writing by a nurse practitioner or physician.

9329 [RESERVED]

9330 CLOSING OF EDUCATION AND TRAINING PROGRAMS

- 9330.1 Each HHA program that voluntarily closes shall:
 - (a) As early as reasonably possible, notify the Board, in writing, of the intended closing, stating the reason(s) for and planned date of the intended closing;
 - (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed;
 - (c) Notify the Board of the final closing date at least thirty (30) days before the final closing; and

- (d) Submit records to the Education Licensure Commission (ELC) for custody and retention, pursuant to the regulations of the ELC.

9330.2 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board;
- (b) Submit to the Board a list of all program graduates and all current trainees transferred to approved programs and dates of transfer;
- (c) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled; and
- (d) Submit student records to the ELC for custody and retention prior to closing date.

9331 RECORDS RETENTION

9331.1 Each HHA training program shall maintain an accurate and appropriate system of record keeping.

9331.2 Each HHA training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9331.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation and health information.

9331.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and position description.

9331.5 All records shall be maintained by the HHA training program for a minimum of five (5) years.

9332 RESOURCES, FACILITIES, AND SERVICES

9332.1 Each HHA training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

- (a) Adequate temperature controls in each training facility;
- (b) Clean and safe conditions of the facility's premises;
- (c) Adequate space to accommodate faculty;

- (d) Adequate lighting in each facility; and
- (e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9332.2 Each classroom, conference room, laboratory, and office shall be adequate to meet the needs of the HHA training program.

9332.3 Each cooperative agreement between an HHA training program and an agency shall be in writing. The training program shall maintain a copy of the agreement in its records.

9399 DEFINITIONS

9399.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - any willful or reckless act or omission that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, physical or emotional injury, death, or financial exploitation of a client.

Activities of daily living - self-care activities which a person performs independently, when able, to sustain personal needs or to participate in society.

Applicant - a person applying for a certification to practice as an HHA.

Board - the Board of Nursing, established by § 204 of the Act, D.C. Official Code § 3-1202.04 (2012 Supp.).

Clinical activities - faculty-planned and guided learning activities designed to assist students in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences, planned learning activities in community facilities and residences, and other resources. Clinical activities shall not include skills lab activities.

Clinical preceptor - an individual meeting the requirements of this chapter who is an employee of a clinical agency and works with a trainee in a clinical setting to facilitate student learning in a manner specified in a signed written agreement between the agency and the educational institution.

Clinical preceptorship - an organized system of clinical experiences which allows an HHA trainee to be paired with a clinical preceptor for the purpose of attaining specific learning objectives.

Conditional approval - the approval status that is granted for a time period specified by the Board to an HHA training program to correct deficiencies when

the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the HHA. Content of continuing education reflects current and emerging concepts, principles, practices, theories, and nursing related research, information beyond that which is taught in the training program. Continuing education is not basic skill training, competency training, local policy administrative procedures training, or update briefings.

Direct supervision - supervision in which the supervisor is physically present and accessible in the immediate client area and is available to intervene if necessary.

Director – Director of the D.C. Department of Health.

Education Licensure Commission – Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia. The Commission establishes standards for postsecondary educational operations, authorizes operations, approves programs, issues or denies licenses to, and oversees all private postsecondary educational institutions in the District of Columbia. The Commission is the Mayor’s only entity authorized to issue educational licenses and is charged with advising the Mayor and City Council with respect to postsecondary educational needs of the District.

Endorsement - the process of issuing a certification to an HHA applicant who is registered or certified by a state board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

General supervision - supervision in which the supervisor is available for consultation either in person or by a communication device, but is not necessarily physically present on the premises.

Home health aide (HHA) - an individual, including a personal care aide (PCA), who as a result of training and demonstrated competencies, works under the supervision of a nurse or other health professional licensed in the District of Columbia and provides nursing or nursing related services to clients in a home setting or in assistive living facilities.

Immediate supervision – supervision in which the supervisor is physically with the supervisee and is either discussing or observing the supervisee’s practice.

In-service – learning experiences provided in the work setting for the purpose of assisting staff members in performing their assigned functions in that particular agency

or institution; and consists of activities intended to assist the HHA to acquire, maintain, or increase competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Neglect – any act or omission which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Reinstatement – reissuance of an expired HHA certificate.

Skills laboratory activities – faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the HHA. The activities include demonstrations and return demonstrations using equipment and supplies that are used in the home for the purpose of attaining required psychomotor skills.

9399.2 The definitions in § 4099 of chapter 40 of this title are incorporated by reference into and are applicable to this chapter.